

AN ORDINANCE GRANTING CERTAIN FRANCHISES AND RIGHTS TO  
CITIZENS UTILITIES COMPANY, ITS SUCCESSORS AND ASSIGNS,  
IN THE CITY OF LAS ANIMAS, COUNTY OF BENT, AND STATE OF  
COLORADO.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAS ANIMAS,  
COUNTY OF BENT, AND STATE OF COLORADO:

SECTION 1. That there be and hereby is granted to CITIZENS UTILITIES COMPANY, a Delaware corporation, hereinafter referred to as the Grantee, the sole and exclusive right, privilege, and franchise to construct, erect, build, operate, and maintain, within the said City of Las Animas, such mechanical or other appliances and equipment as may be necessary for the manufacture and distribution of manufactured, or mixed manufactured and natural gas, or for the distribution of natural gas, for lighting, power, heating, industrial, or other purposes to which gas may be applied whether manufactured, mixed, or natural, with the sole and exclusive right and privilege for the period and upon the terms and conditions hereinafter specified, to construct, maintain, and operate a transmission line or lines for the purpose of conducting into or from or to said City, gas generated there or elsewhere, and to sell or furnish natural or manufactured or mixed gas to the said City of Las Animas and the inhabitants thereof, and to distribute the same by means of mains, conduits, or pipes laid over, upon, along, under, and/or across the streets, alleys, bridges, public ways, and public places in the said City of Las Animas and upon the extension or continuation of any such streets, alleys, bridges, and public ways, and places or upon any new streets, alleys, bridges, and public ways and places that may hereafter be laid out, opened, or constructed, and consent is hereby given to construct, operate, and maintain through said City a main transmission line or lines for the service of other cities and communities outside of the City of Las Animas.

And for the purposes aforesaid the said Grantee may enter upon, through, or under any street, avenue, alley, viaduct, subway, or public place or grounds and take up any pavement or sidewalk then existing therein or thereon and make excavations necessary for the laying of such conduits, mains, pipes, and appurtenances, provided that any such use of said street, avenues, alleys, viaducts, subways, and public grounds be made with the least possible inconvenience to the inhabitants of said City; that such excavations be barricaded when necessary and lighted at night and that such sidewalks, pavements, or excavations be refilled and replaced without unnecessary delay, by and at the expense of the Grantee, in as good condition as they were before said work was commenced.

PROVIDED, HOWEVER, that the Grantee shall not have the absolute right to cut into or remove any permanent sidewalks, but shall be required wherever practicable in laying mains, conduits, or pipes to tunnel under said sidewalks;

PROVIDED, FURTHER, that said Grantee shall not have the right to enter into any public park or public grounds in said City for the purpose of laying conduits, pipes, or mains until it has first obtained the consent of the City Council so to do.

SECTION 2. All conduits, pipes, and mains shall be placed in alleys wherever practicable and in any event in such manner as will not unnecessarily interfere with the use of said streets and alleys, and public highways, places and grounds nor with the established grade of streets or gutters, nor with water pipes or sewers or any character of

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drain pipes which are now installed in the said streets or alleys by the said City.

SECTION 3. The Grantee shall be and remain solely and exclusively responsible for all damage to persons or property that may arise by reason of any negligence of the Grantee or any of its agents, servants, or employees, in exercising any of the privileges, rights, or franchises herein granted. The said Grantee shall hold and save harmless the City of Las Animas from and against any and all loss and damage of any kind or description whatever by reason of its negligent exercise of any right, privilege, or franchise hereby granted.

SECTION 4. This Ordinance and the rights, privileges, and franchises hereby granted shall be and remain in full force and effect for the period of twenty-five (25) years from and after its effective date, provided that the Grantee shall, before such effective date, have filed with the City Clerk of said City its written acceptance of this Ordinance and in case of failure of said Grantee to file such acceptance within the time so limited, this Ordinance, and the rights, privileges, and franchises hereby granted shall be and become null and void, but the rights and franchises granted by this Ordinance are granted upon the express condition that said City shall have the right and power to purchase or to condemn at the time or times and under the conditions and in the manner provided by the laws of the State of Colorado at such time in full force and effect, all works and plants erected hereunder and all property of said Grantee actually used or useful for the convenience of said City.

SECTION 5. Said Grantee shall pay to said City two percent (2%) of all collected gross receipts derived by said Grantee from the sale of gas within the corporate limits of said City, payment to be made to the City Treasurer on or before the 20th day of each month for the amount due said City for the preceding month, provided, always that the income derived from the sale of gas to said City for lighting, heating, power, or other purposes shall be considered part of said gross receipts and included therein. Said payment shall be in lieu of all meter, occupation, privilege, franchise, license, or other similar tax now or hereafter assessed or levied against said Grantee by the City for any purpose whatever, and should the City at any time impose any such tax, then, and in that event, the obligation hereby imposed upon the Grantee to pay the amount in this section provided shall cease and terminate without affecting the remainder of this franchise.

SECTION 6. Upon the effective date of this Ordinance, if the Grantee shall have accepted the same, the franchise granted to said Grantee by Ordinance No. 322 approved September 8, 1953, shall be and become null and void.

SECTION 7. The rights, privileges, franchises, and easements hereby granted shall inure to the benefit of said CITIZENS UTILITIES COMPANY, its successors and assigns, and wherever the word "Grantee" is used herein, the same shall refer and apply to said CITIZENS UTILITIES COMPANY, its successors and assigns, as if said Company, its successors and assigns, were mentioned in each instance, and wherever the words "City" or "City of Las Animas" are used, they shall be deemed and taken to mean the CITY OF LAS ANIMAS, COUNTY OF BENT, AND STATE OF COLORADO.

SECTION 8. This Ordinance shall take affect thirty (30) days

after it has been published as provided by law following its final passage and approval.

APPROVED this 19<sup>th</sup> day of September, 1978.

Shirley R. Garcia  
Mayor

ATTEST:

John J. McAffee  
City Clerk

STATE OF COLORADO     )  
COUNTY OF BENT        ) ss.  
CITY OF LAS ANIMAS    )

I, VIGAR J. McAFEE, City Clerk of the City of Las Animas, County of Bent, and State of Colorado, do hereby certify that CITIZENS UTILITIES COMPANY, prior to the introduction of the foregoing Ordinance, caused notice of its intention to apply to the City Council of said City for the passage of an Ordinance granting the franchise set forth in the foregoing Ordinance to be published in the Bent County Democrat, the official newspaper of the City of Las Animas, Colorado, and I further certify the above and foregoing Ordinance was introduced, read in full, and passed on first reading at a regular meeting of the City Council held on the 5th day of September, 1978, as Ordinance #444 of the City of Las Animas, County of Bent, and State of Colorado.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Las Animas, this 20th day of September, 1978.

John J. McAffee  
City Clerk

